



ST. CHRISTOPHER AND NEVIS

CHAPTER 6.04 (N)

NEVIS ZONING PLAN ORDINANCE

Revised Edition

showing the law as at 31 December 2009

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This edition contains a consolidation of the following laws—

NEVIS ZONING PLAN ORDINANCE

Ordinance 1 of 1991 ... in force

Page

3

CHAPTER 6.04 (N)
NEVIS ZONING PLAN ORDINANCE

ARRANGEMENT OF SECTIONS

1. Short title
2. Interpretation
3. Preparation of Draft Plan
4. Public Notification
5. Public Submissions
6. Consideration of submissions
7. Review
8. Submission of Draft Plan
9. Refusal to approve Draft Plan
10. Approval of Draft of Plan
11. Minor amendments
12. Five yearly
13. Interpretation
14. Breach
15. Variation
16. Appeal
17. Existing uses preserved
18. No compensation
19. Appeals
20. Regulations
21. Crown bound

FIRST SCHEDULE

SECOND SCHEDULE

THIRD SCHEDULE

CHAPTER 6.04 (N) NEVIS ZONING PLAN ORDINANCE

AN ORDINANCE TO ENABLE A ZONING PLAN FOR THE ISLAND OF NEVIS TO BE PROMULGATED AND TO PROVIDE FOR RELATED OR INCIDENTAL MATTERS.

Short title.

1. This Ordinance may be cited as the Nevis Zoning Plan Ordinance and shall come into operation on such date as the Minister may appoint by notice published in the *Gazette*.

Interpretation.

2. In this Ordinance, unless the context otherwise requires—

“building”, “building operations” “development”, and “land”, shall bear the meanings ascribed to them in section 2 of the Land Development Ordinance, Cap. 4.01 (N);

“Building Board” shall mean the board set up by section 4(1) of the Building Act, Cap. 284 (1961 Revised Edition);

“the Land Development Ordinance” means the Land Development Ordinance, Cap. 4.01 (N);

“Minister” means the Member of the Nevis Island Administration for the time being charged with responsibility for Lands, Planning and Development.

Preparation of Draft Plan.

3. The Minister shall as soon as is practicable after the commencement prepare a draft Zoning Plan for the Island of Nevis.

Public Notification.

4. (1) Public notification that a draft Zoning Plan has been prepared shall be given in accordance with subsection (2).

(2) The draft Zoning Plan shall be publicly notified by the Minister by—

(a) publication in the *Gazette*; and

(b) publication in two issues of a daily newspaper circulating in the Island; and

(c) featuring in two separate radio transmission from a radio station heard in the Island.

(3) The Draft Zoning Plan shall specify the place at which—

(a) a copy of the draft plan may be inspected;

(b) copies of the draft plan may be obtained;

(c) stating the effect of section 5 and specify the period referred to in that section.

(4) The Minister may fix and charge a reasonable fee for supplying copies of the draft Zoning Plan.

Public Submissions.

5. Written submissions on the draft Zoning Plan may be made by any person—
- (a) within a period determined by the Minister, which period shall not be less than 60 days after the day on which the notice is published in the *Gazette*; and
 - (b) by delivery or posting them, so that they are received within that period at the offices of the Minister.

Consideration of submissions.

6. The Minister shall consider any written submissions made pursuant to section 5 and if he considers that such submissions are so important he may refer all the submissions to an Appeals Tribunal set up pursuant to section 20 of this Ordinance for review and report to be completed within 60 days of the end of the period specified in section 5(a) of this Ordinance.

Review.

7. After having considered the submissions made pursuant to section 5 and any report made pursuant to section 6 of this Ordinance the Minister shall review the Draft Zoning Plan and shall if he thinks fit make modifications to the draft.

Submission of Draft Plan.

8. The Minister shall submit the Draft Zoning Plan so modified as he thinks fit to the Nevis Island Administration which may—
- (a) approve or refuse to approve the draft Zoning Plan; or
 - (b) approve the same subject to modifications.

Refusal to approve Draft Plan.

9. In the event of a refusal to approve the Draft Zoning Plan the Minister shall forthwith prepare a further draft and proceed to deal with such further draft as if it had been a draft mentioned in section 3 of this Ordinance

Approval of Draft of Plan.

10. (1) In the event of an approval of the Draft Zoning Plan pursuant to section 8 of this Ordinance notification shall forthwith be made in like manner to the notification referred to in section 4(2) of this Ordinance which notification shall also indicate where a copy of the Zoning Plan may be inspected or obtained.

(2) The Zoning Plan shall come into operation on the day of publication in the *Gazette* of the notification under subsection (1) or on such later day as is specified in the Zoning Plan.

(3) On and after such day the Zoning Plan shall be called the Approved Zoning Plan.

(4) The Minister may fix and charge a reasonable fee for supplying copies of the approved Zoning Plan.

Minor amendments.

11. (1) A minor amendment to the Approved Zoning Plan may be made by order of the Minister and published in the *Gazette*.

(2) For the purposes of this section, a minor amendment is one which the Minister has certified that in his opinion the amendment does not constitute a substantial alteration to the Approved Zoning Plan.

Five yearly.

12. (1) The Minister shall every five years after the coming into operation of the Approved Zoning Plan review the Approved Zoning Plan then current.

(2) If on such review the Minister shall conclude that the Approved Zoning Plan should be amended he shall as soon as practicable prepare a new Draft Zoning Plan as if he was proceeding under section 3 of this Ordinance and shall proceed through the steps set out in section 3 to 10 of this Ordinance as if such amended Zoning Plan was the first draft Zoning Plan.

Interpretation.

13. (1) In interpreting the draft and the Approved Zoning Plan the words set out in the First Schedule to this Ordinance shall bear the meanings set out in that Schedule.

(2) The Minister may from time to time amend the words or the meanings set out in the First Schedule.

(3) All such amendments purporting to be made in pursuance of subsection (2) shall be published in the *Gazette* and shall come into operation on such publication or at other time as shall be stated in such publication.

(4) The Minister may from time to time publish guidelines as to particular types of development or in relation to particular areas of the Island which guidelines shall be observed by the Building Board in determining applications.

Breach.

14. No person shall carry out development which is contrary to the provisions of the approved Zoning Plan unless he shall be carrying out development pursuant to permission granted by the Minister pursuant to section 3 of the Land Development (Control) Ordinance.

Variation.

15. (1) An application to vary a provision of the Approved Zoning Plan may be made to the Minister as if it was an application for permission made pursuant to the provisions of section 3 of the Land Development (Control) Ordinance.

(2) An application to vary a provision of the Approved Zoning Plan shall be deemed to have been made if on consideration by the Building Board of an application under the Building Rules 1946 it appears to the Board that the proposal is inconsistent with the Primary Use of the land as specified in the Approved Zoning Plan. Such a deemed application shall be referred to the Minister and dealt with by him pursuant to the provisions of section 3 of the Land Development (Control) Ordinance.

Appeal.

16. Upon the refusal of the Minister to vary a provision of the Approved Zoning Plan under the provisions of section 16 of this Ordinance the applicant may, within thirty days after such refusal has been transmitted to him, appeal to the Appeals Tribunal which may confirm or reverse or vary the decision of the Minister.

Existing uses preserved.

17. It is hereby declared that nothing in this Ordinance shall—
- (a) restrict or prevent the use of any land or building in the use in which they were used on the day of the publication of the Bill which led to the passing of this Ordinance;
 - (b) prevent the implementation in accordance with the terms of any permit granted by the Minister before the date mentioned in sub-section (1) hereof under the provisions of section 3 of the Land Development (Control) Ordinance.

No compensation.

18. (1) There shall be no right of compensation in respect of the draft Approved Zoning Plan or amendment of the Approved Zoning Plan nor in respect of any planning decision or any condition or limitation thereof or the failure or delay in making such a decision of the Appeals Tribunal.

(2) There shall be no right to require the Minister to acquire land affected or not affected by the draft or Approved Zoning Plan or any amendment of the Approved Zoning Plan nor otherwise to compensate any person aggrieved by any action or lack of action under the provisions of this Ordinance.

Appeals.

19. The Nevis Island Administration may from time to time constitute an Appeals Tribunal in accordance with the provisions and with the powers set out in the Third Schedule to this Ordinance.

Regulations.

20. (1) The Minister may make such regulations as he deems necessary for the purpose of this Ordinance.

(2) Any regulations made under sub-section (1) may provide for the imposition of a fine.

Crown bound.

21. The Crown shall be bound by the provisions of this Ordinance.

FIRST SCHEDULE

(Section 13(1))

Airport Area.

Primary use

An airport with associated facilities for passengers and cargo.

Secondary Use

Industry necessarily associated with the airport.

Charlestown Area.

Primary Use

Offices, shopping, restaurant, housing and other uses appropriate in a central area.

Charlestown Historic Area.

Any development appropriate to a central area provided that—

(1) any development which would affect the external appearance of a building which is of a special historical or architectural interest in the area may be permitted after consultation with the Historical and conservation Society; and

(2) any development of a building which is of special architectural or historic interest shall only be permitted after consideration of the effect of such development on the exterior of such building.

Conservation Area.

Primary Use

The primary uses are the existing uses. Generally development will only be permitted if it will improve or enhance the area and after Consultation with the Historical and Conservation Society. In the areas mentioned below there are additional considerations which will be taken into account in considering a planning application.

Round Hill

(1) No building shall be permitted which will appear against the natural skyline of Round Hill when seen from the ground level.

(2) Any building permitted shall be clad in natural stone and have a roof of a green material.

(3) The lots around any building permitted shall retain the maximum amount of natural vegetation.

Saddle Hill

There is a presumption against any development except the clearing and restoration work necessary to exploit the historic associations of the area.

The Bogs

There is a presumption that the existing character of the area be retained.

Nelson's Spring Area

There is a presumption against development in this area.

Hotels and Tourism Area.*Primary Use*

Use as hotels and tourist facilities. The number and design of building and their uses will be strictly regulated to maintain so far as possible the unspoilt appearance of the areas. The following additional considerations will be taken into account in considering any planning applications—

- (1) No development shall be nearer than 120 feet from high water mark.
- (2) No building shall be nearer than 300 feet from high water mark.

High Quality Agricultural.*Primary Use*

The primary use is agricultural and there is a presumption against any building except for houses of an appropriate size to enable the working of an economic agricultural unit such a house being subject to a condition that at all future times the occupier should be solely or mainly employed in the agricultural unit to which that house relates.

Industrial Area.*Primary Use*

The use of land and the construction of buildings for all purposes connected with heavy industry or appropriate in a light industrial area.

Light Industrial Area.*Primary Use*

The use of land and the construction of buildings for purposes connected with light industry that is to say a process which can be carried on or the machinery installed is such as could be carried on or installed in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

Low Density Housing Land Area.

Primary Use

Land for the construction of buildings for single family residential occupation provided that—

- (1) the lot size for each separate residential building is not less than one half of an acre; and
- (2) the design and construction of each building is appropriate to the area.

There is a presumption against the use of any land or the construction of any building for any use inappropriate in a low density housing area in particular a presumption against commercial and industrial development (whether industrial or light industrial) and the raising or keeping of livestock.

Secondary Use

Small hotels may be permitted provided that those parts which generate noise such as dance halls, swimming pools and oar parks are so located as to minimise noise disturbance to residential properties in the area.

Marine Park Area.

Primary Use

The use of land and water for the purposes mentioned in section 23(1) of the Fisheries Act 1984 provided that conditions will be imposed on any permission to the effect that—

- (1) no fishing boats nor power boats will be permitted in the area; and
- (2) no landing or anchoring of small boats will be permitted except at permitted permanent moorings.

Marginal Agricultural Land Area.

Primary Use

Agriculture.

Secondary Use.

Development for any purpose of such (Land as which) has no high landscape value:

Provided that conditions will be imposed—

- (1) that such development will be of a comprehensive nature; and
- (2) all infrastructure will be provided by the applicant before the development comes into use.

Primary Use

Medium Density Housing Land Area.

Land for the construction of buildings for residential occupation provided that conditions will be imposed to the effect that the lot size for each separate residential building is not less than 5000 square feet.

Secondary Use

There is a presumption in favour of permitting a suitable number of other uses and buildings for light industrial commercial development and agriculture.

There is a presumption against permitting hotel development in this area.

*Primary Use***Medium Quality Agricultural Area.**

Agricultural.

Secondary Use

There is a presumption in favour of permitting other development on this land if there is a sound economic reason to do so.

*Primary Use***National Park Area.**

A national park as defined in section 1 of the National Conservation and Environmental Protection Act 1987. There is a presumption against the use of land or buildings for any purpose other than as incidental to the primary use.

SECOND SCHEDULE

(Section....)

Enforcement 9A.

(1) Where it appears to the Minister that development has been carried out in breach of section 3 of this Ordinance or in breach of section 14 of the Zoning Plan Ordinance 1991. The Minister may serve an enforcement notice requiring the breach to be remedied.

(2) An enforcement notice—

- (a) shall state the substance of the matter alleged to constitute the breach and the reasonable steps required to be taken for remedying the breach or for removing and alleviating its effect and shall specify a reasonable period for compliance with the notice;
- (b) may require that any activity the subject of the enforcement notice shall cease forthwith on the service of the enforcement notice; and
- (c) may require that an unoccupied building the subject of an enforcement notice shall remain unoccupied until the breach complained of has been remedied.

(3) The steps which may be required by an enforcement notice may include the demolition or alteration of any building or works, the discontinuance of any use of land or the carrying out of any building or other operations.

(4) An enforcement notice shall be served on the owner and on the occupier of the land to which it relates and the notice shall come into effect in relation to any such person immediately upon the service on such person.

(5) A person on whom an enforcement notice is served may within the time specified in such notice for remedying the breach complained of may appeal to the Appeal Tribunal which may confirm or reverse or vary the enforcement notice.

(6) Where any person on whom an enforcement notice is served fails to comply with the enforcement he shall commit an offence and shall on conviction before the Magistrate be liable to a fine of not more than \$2500.00 and in the case of a continuing offence to a further penalty of \$50.00 for each day on which such offence continues.

(7) Where all the steps specified in the enforcement notice have not been complied with within the time specified for compliance in the enforcement notice the Minister may enter upon the land and carry out those steps specified in the enforcement notice but not complied with and may recover them from the person who is the owner of the land at the time of such recovery any expenses reasonably incurred in so doing.

(8) The Minister may by regulations provide for the form of and service of an enforcement notice.

THIRD SCHEDULE*(Section....)*

1. An Appeals Tribunal shall be constituted from time to time by the Nevis Island Administration and shall remain in existence until discharge of a particular function or functions as the Administration shall direct.

2. The Appeals Tribunal shall consist of the Magistrate District “C” as chairman and two other members. The Tribunal shall be selected by the Administration from persons who would represent some of these bodies or persons, namely—

- (a) Planning Board;
- (b) the Magistrate;
- (c) the Director of Agriculture;

Members of the legal, land or other professions; so long as any member who sits on the Appeals Tribunal shall not have been a party to a decision which is appealed against.

3. The Appeals Tribunal members shall be paid such fees as the Minister shall determine.

4. The Appeals Tribunal shall examine the issues referred to it and shall decide thereon.

5. The Appeals Tribunal shall make such regulations for its proceedings as it thinks fit.
